IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.2842 OF 2003

Vittal Narsu Patil & anr. Petitioners

versus

Shamrao Shiripati Patil Respondent

Mr.V.B.Rajure for petitioners.

Mr.S.M.Kamble for respondents.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 18th January 2006

PC :

1. Heard Shri Rajure appearing for petitioner and Shri Kamble for the respondents.

2. Shri Rajure invites my attention to the application made before the Lower Appellate Court on 30th January 2003 by the petitioners and order passed thereon on 31st January 2003. The order states that although the appeal of the respondents stands allowed and the order of Trial Court is set aside, the parties should maintain status-quo till 3rd March 2003. This order was

passed after taking due note of the objections raised by the respondents to the effect that they are in physical possession of the suit property. The order of status-quo was continued till 4th April 2003 by the Lower Appellate Court vide its order dated 3rd March 2003.

3. After the order of the Lower Appellate Court, present petition is filed. The writ petition was placed before a learned Single Judge (Coram : Dr.S.Radhakrishnan, J.) on 22nd April 2003 and this Court after hearing Shri Rajure as well as Shri Kamble, passed following order :-

> "Petition is adjourned to 17th June 2003. Pending further orders, parties to maintain status-quo as of today."

Thus, status-quo as on 22nd April 2003 has been continuing. Parties also bring to my notice the consent minutes of order dated 30th April 2004 in civil applications which have been moved in this petition.

4. This petition under Article 227 of the Constitution of India at the instance of original plaintiffs impugns the order of Lower Appellate

Court vacating the temporary injunction granted by the Trial Court on 30th November 2002 in Regular Civil Suit No.56 of 2001.

5. The assertion of the petitioners is that the petitioners are in possession of the suit land and in lawful cultivation of the same. Respondents-original defendants are causing obstruction to their possession. Appropriate declaratory orders and injunctions are sought in the main suit. On the other hand, it is the case of the respondents that the physical possession of the properties is not with the petitioners.

6. In my view, considering the fact that the suit is filed in the year 2001 and is still pending, interest of justice would be served if the order of status-quo granted by this Court on 22nd April 2003 is continued till hearing and final disposal of the suit. Considering the fact that petitioners are senior citizens and the suit is pending from 2001, the Trial Court can be directed to dispose of the same expeditiously and in any event before 30th June 2006.

7. At this stage, Shri Kamble brings to my notice a fact that pursuant to certain orders

passed by Lower Appellate Court, amount generated from cultivation of the sugar cane crop from the suit land has been deposited in the Trial Court. Since the said amount is lying with the Trial Court and the same has been deposited pursuant to orders of Court, withdrawal thereof should be permitted by this Court. Similarly, he submits that, the order of status-quo which has been continuing, should not prejudice the parties and it should be open for the original defendants to apply for modification and/or variation thereof in case the facts and circumstances necessitate.

8. Shri Rajure has no objection to such liberties being granted to the respondents, namely, to apply for withdrawal of the amount deposited in the Lower Court as well as to apply for modification of order of status-quo if the facts and circumstances so necessitate and warrant. Leaving remedies open for the respondents to so apply, present petition is disposed of with following order.

9. ORDER :-

i) The order of status-quo passed by this Court on 22nd April 2003 to continue till hearing and

final disposal of Suit No.56 of 2001;

ii) The respondents are at liberty to apply to the Trial Court for withdrawal of the amount deposited as well as to modify the order of status-quo;

iii) In case such applications are moved, they shall be decided on merits and in accordance with law;

iv) The Trial Court shall endeavour to dispose of the suit as expeditiously as possible and in any event by 30th June 2006;

v) The suit should be disposed of uninfluenced by any observations made by the Lower Appellate Court as well as the Trial Court including the order of status-quo granted by this Court;

vi) Record and proceedings in the suit which have been transmitted to this Court, should be sent back expeditiously.

vii) Parties to appear before the Trial Court on 13th February 2006.

Petition disposed of.

(S.C.DHARMADHIKARI, J.)